

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

HUNTER KILLER PRODUCTIONS, §
INC.; BODYGUARD PRODUCTIONS, §
INC.; MORGAN CREEK §
PRODUCTIONS, INC.; VOLTAGE §
HOLDINGS, LLC; RAMBO V §
PRODUCTIONS, INC., § EP-20-CV-00306-FM
§
Plaintiffs, §
§
v. §
§
SABRINA BOYLAN, §
§
Defendant. §

ORDER DENYING MOTION FOR DEFAULT JUDGMENT WITHOUT PREJUDICE

Before the court is “Plaintiffs’ Motion for Default Judgment” (“Motion”) [ECF No. 16], filed June 2, 2021 by Hunter Killer Productions, Inc.; Bodyguard Productions, Inc.; Morgan Creek Productions, Inc.; Voltage Holdings, LLC; and Rambo V Productions, Inc. (“Plaintiffs”). Therein, Plaintiffs request the court enter default judgment against Sabrina Boylan (“Defendant”).¹

Under Federal Rule of Civil Procedure 55(a), “[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, . . . the clerk must enter the party’s default.” After a defendant’s default has been entered, a plaintiff may apply for a judgment based on such default.² “A default judgment is a judgment on the merits that conclusively establishes the defendant’s liability.”³ Federal Rule of Civil Procedure 55(b)

¹ “Plaintiffs’ Motion for Default Judgment,” ECF No. 16, filed June 2, 2021.

² FED. R. CIV. P. 55(b); *New York Life Ins. Co.*, 84 F.3d at 141.

³ *United States v. Shipco Gen., Inc.*, 814 F.2d 1011, 1014 (5th Cir. 1987).

(“Rule 55(b)”) provides two means by which a plaintiff may obtain an entry of default judgment. The plaintiff may apply to the clerk of the court for the entry of default judgment when the defendant is neither a minor nor an incompetent person, and the plaintiff’s claim is for a sum certain or for a sum which can be made certain by computation.⁴ In all other cases, the party entitled to a judgment by default must apply to the court.⁵

Here, Plaintiffs have not moved for entry of default by the clerk’s office under Rule 55(a). This is a mandatory first step to obtaining default judgment under Rule 55(b). As Plaintiffs have not complied with the Federal Rules of Civil Procedure, the court cannot consider the substance of the Motion.

Accordingly, it is **HEREBY ORDERED** that “Plaintiffs’ Motion for Default Judgment” [ECF No. 16] is **DENIED** without prejudice to refiling.

SIGNED AND ENTERED this 25th day of **June 2021**.



FRANK MONTALVO
UNITED STATES DISTRICT JUDGE

⁴ FED. R. CIV. P. 55(b)(1).

⁵ FED. R. CIV. P. 55(b)(2).